IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

CRP.No. 840 of 2007()

SMP.2/1985 of TALUK LAND BOARD, PERINTALMANNA

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REVN. PETITIONERS: LR'S OF THE ASSESSEE

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1. ABDUL SALAM, S/O.ABDU HAJI,
   AMBATTU HOUSE, PULLIKUTHU, MELATTUR,
   MALAPPURAM DISTRICT.

2. ABDUL JALEEL, S/O.ABDU HAJI,
   AMBAT HOUSE, EDAYATTUR, MELATTUR,
   MALAPPURAM DISTRICT.

3. MUHAMMED ASHARAF, S/O.ABDU HAJI,
   AMBAT HOUSE, PULLIKUTHU, MELATTUR,
   MALAPPURAM DISTRICT.

4. ANVARUDHEEN, AMBAT HOUSE, EDAYATTUR,
   MELATTUR, MALAPPURAM DISTRICT.

5. SALEENA SADIQUE, D/O.ABDU HAJEE,
   AMBAT HOUSE, EDAYATTUR, MELATTUR,
   MALAPPURAM DISTRICT.

6. RAMLA ABDUL HAJEE,
   W/O.LATE ABDU HAJEE,
   AMBAT HOUSE, EDAYATTUR, MELATTUR,
   MALAPPURAM DISTRICT.

7. MUHAMMED FAIZ (MINOR)
   S/O.RAMLA ABDU HAJEE, AMBAT HOUSE,
   EDAYATTUR, MELATTUR, MALAPPURAM DISTRICT.

8. AMEER SUHAIL (MINOR),
   S/O.RAMLA ABDUL HAJEE, AMBAT HOUSE,
   EDAYATTUR, MELATTUR,
   (PETITIONERS 7 & 8 ARE REPRESENTED BY GUARDIAN
   THE 6TH PETITIONER RAMLA ABDU HAJEE).

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

RESPONDENTS: RESPONDENTS
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1. TALUK LAND BOARD, PERINTHALMANNA.

2. TAHSILDAR, PERINTHALMANNA.

3. STATE OF KERALA - REPRESENTED BY
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.K.G.BALAKRISHNAN

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No. 840 OF 2007

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Dated this the 20th day of September 2007

ORDER

This revision petition is preferred against the order of the Taluk Land Board, Perinthalmanna in S.M.P.No.2 of 1985. It relates to the ceiling case of one Sri.Ambatt Abu. He died and his legal representatives are there now in the party array. As per the decision of this court in C.R.P.No.1344 of 1994 on 7.2.2006, this court set aside the order of the Taluk Land Board with respect to items 6 and 7 and directed the Land Board to consider it afresh in accordance with law. Learned counsel for the petitioners submits before me that so far as it relates to item 7 the property belonged to Mammad Haji, the father of late Abu and Mammad Haji died only in the year 1977. Subsequently by virtue of partition in the year 1977, i.e. document No.168/77 properties had been set apart to the share of Abu as a legal representative of deceased Mammad Haji. Learned counsel for the petitioners would submit that these lands were not held by the declarant as on 1.1.1970 and therefore a case initiated under Section 85 of the Kerala Land Reforms Act with respect to that property cannot be entertained. Even

if it is entertained, then the transfer effected between 1.1.1970 till the date of acquisition of the property under 1977 document also has to be taken into consideration and then only the ceiling limit can be fixed under Section 87 of the K.L.R.Act. This matter has not been adverted into that angle by the Land Board and therefore it requires interference.

2. so far as item 6 is concerned, it is submitted that the deceased Abu did not have any inch of property in Sy.No.172/2 and it has been in the possession of Mammad Basheer. It is true that the Taluk Land Board has deleted considerable extent and found that 12 cents alone are to be computed for fixing the ceiling limit of Abu. Since petitioners contend that Sy.No.172/2 cannot be taken at all, it is a matter which requires detailed consideration by the Land Board.

Therefore the order under challenge is set aside the matter is remitted back to the Taluk Land Board for considering the question afresh with respect to items 6 and 7 after affording an opportunity to the petitioners to produce documents and adduce evidence in support of their respective contentions. Parties are directed to appear before the court below on 30.10.2007. Needless to say that the property cannot be taken possession

till a final decision is taken by the Board.

C.R.P. is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-